

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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Order Instituting Rulemaking into the Review
of the California High Cost Fund B Program.

Rulemaking 06-06-028
(Filed June 29, 2006)

**REPLY COMMENTS OF VERIZON REGARDING
ASSIGNED COMMISSIONER'S RULING ON ISSUES
RELATING TO THE CALIFORNIA ADVANCED SERVICES FUND**

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October 3, 2007

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Verizon¹ respectfully submits these reply comments regarding responses to the Assigned Commissioner's Ruling on Issues Relating to the California Advanced Services Fund (Ruling) dated September 12, 2007. The Ruling solicits comments concerning the establishment and funding of a California Advanced Services Fund (CASF), and what rules should be formulated to determine eligibility to draw from the CASF. These reply comments are grouped according to the questions in the Ruling.

RESPONSES TO QUESTIONS

Q1. Address the policy merits and legal basis for funding and administering the CASF under the provisions of the CHCF-B program versus establishing an entirely new independent funding program pursuant to the Commission's statutory authority under Pub. Util. Code § 701.

Virtually all parties addressed this issue at length, giving rise to well-articulated concerns with proposals to fund the CASF, whether with existing CHCF-B funds or from an entirely new source. A number of parties point out that the Commission's current detailed definition of "basic service" would preclude wireless and other carriers from participating in the fund, were Public Utilities Code §739.3 retained as the basis for funding. This legal infirmity exists even under the rationale of D.07-09-020, which treats basic telephone service as merely one component of broadband service.

Assuming that the upcoming sunset of §739.3 occurs on January 1, 2009, D.07-09-020 found that the Commission will still have the requisite authority to

¹ The Verizon affiliates submitting these comments include Verizon California Inc. (U-1002-C), Bell Atlantic Communications, Inc., d/b/a Verizon Long Distance (U-5732-C), MCI Communications Services, Inc, d/b/a Verizon Business Services (U-5378-C), MCI Metro Access Transmission Services, d/b/a Verizon Access Transmission Services (U-5253-C), TTI National, Inc., d/b/a Verizon Business Services (U-5403-C), Teleconnect Long Distance Services & Systems Company, d/b/a Telecom*USA (U-5152-C), and Verizon Select Services, Inc. (U-5494-C).

continue to fund universal service under other provisions of state and federal law.² Likewise, section 706 of the Telecommunications Act of 1996 requires the FCC as well as state commissions to “encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans . . . by utilizing, in a manner consistent with the public interest, convenience, and necessity, . . . regulating methods that remove barriers to infrastructure investment.”³ Because the legal issues associated with reliance on § 739.9 will sunset along with the legislation, the Commission may wish to spend the next year identifying unserved areas that will be targeted for funding, developing the fund mechanism, accepting applications, and awarding funds to specific projects. Project funding could then begin as of January 1, 2009. Any issues concerning the legality of proceeding in that manner could also be resolved during that period, for example through the rehearing process.

Also, DRA appears to recommend that, in the event CASF supports a single provider in any particular area, the Commission must consider imposing rate caps on broadband services to insure affordable rates.⁴ This should not be adopted. Any effort the Commission undertakes to promote broadband infrastructure must be done in as pro-competitive manner as possible, promoting market-based incentives rather than regulatory mandates. Moreover, the

² D.07-09-020 at 28-29 (citing P.U. Code § 709 and 47 U.S.C. §§ 254(b)(3) and 254(f) in support of continued universal service obligations).

³ Other bases and sources of funding may exist as well. For example, the Idaho Rural Broadband Development Matching Fund transferred funds from the Idaho General Fund, to be administered by the Department of Commerce and Labor. See <http://www3.state.id.us/oasis/2006/S1498.html>.

⁴ DRA Comments at 5.

prospect of price caps will greatly diminish carrier willingness to bid for and accept funding.

Q2. What overall dollar amount, funding source(s), and time considerations are appropriate for the CASF to build advanced infrastructure in California? To what extent should matching funds be required? To what extent, and subject to what criteria, should existing B-Fund contributions (versus independent sources) be used to fund the CASF?

One of the key issues facing the Commission is fund size. The Commission must cap the size of the fund at a reasonable, prudent amount so that consumer dollars are only used to subsidize the most cost-effective projects using wireline or wireless technologies. In addition, the CASF should not be viewed as the panacea for every unserved area in the state.⁵ If all applications that meet the Commission's criteria are funded, as AT&T suggests,⁶ there will be no bidding process to encourage carriers to submit applications that are cost-effective and require the least amount of matching funds from the CASF. A limited fund size will also require the Commission to choose projects that benefit the most potential customers at the least cost, and eliminate projects that are very high cost.

Given the important advantages of setting a funding cap, uncertainties about the fund criteria or likely projects should not deter the Commission from establishing a reasonable fund size. The fund size cap should consider the

⁵ Indeed, broadband over satellite may be the best solution for certain remote areas, but such providers will likely not be eligible for CASF grants at recommended speed thresholds, at least as technology exists today. Although downstream and upstream speeds for satellite broadband depend on several factors, including the provider and service package purchased, the consumer's line of sight to the orbiting satellite, and the weather, typically a consumer can expect to receive (download) at a speed of about 500 Kbps and send (upload) at a speed of about 80 Kbps. See <http://www.fcc.gov/cgb/broadband.html>

⁶ AT&T Comments at 5.

number of unserved households to be targeted by the CASF and the average level of deployment cost per household that is reasonable to fund. Data being collected as part of the Broadband Task Force can be used to determine the number of unserved households to be targeted by the CASF, including identifying extremely low density remote areas that may not be reasonable for CASF funding. Cost per household can be estimated using experience in other states, such as the Rural Idaho Broadband Investment Program discussed in Verizon's opening comments.

Most commenting parties supported the concept of matching funds.⁷ AT&T, for example, correctly suggested a match of at least 50% to insure that the applicant was committed.⁸ Sprint-Nextel suggested that applicants match at least 80%.⁹ Verizon supports the requirement of substantial matching funds as it will ensure both financially viable applicants and projects, and will operate to keep the CASF targeted and cost-effective.

Q3. What process should be established for prospective applicants to apply for and receive grants of CASF money for the purpose of deploying broadband services which will include as one component basic residential service within underserved or unserved areas consistent with universal service goals as discussed in D.07-09-020?

Other than Verizon, only AT&T addressed the Ruling's proposed 3/1 MBPS download/upload speed criteria, calling it unnecessary for voice or high speed internet, and recommending a lower threshold (either 200 KBPS or 500 KBPS total).¹⁰ Verizon agrees that a 3/1 MBPS ratio is not appropriate. Because

⁷ See, e.g., DRA Comments at 7; AT&T Comments at 7; Sprint-Nextel Comments at 19.

⁸ AT&T Comments at 7.

⁹ Sprint-Nextel Comments at 19.

¹⁰ AT&T Comments at 10.

provisioning higher speeds is more costly and will limit the number of potential households benefited through a grant program, the Commission should choose a lower overall speed threshold. Verizon recommends a minimum threshold of 768 KBPS downstream and 128 KBPS upstream. This speed is an ILEC industry standard low-priced broadband offering, and will facilitate project cost estimation and business planning for carriers. In contrast, a threshold of 500 KBPS total could limit unserved areas to those where satellite service was also unavailable. This would result in effectively reducing unserved areas to less than 1%.¹¹

Q4. Comments are solicited on the merits of the process to apply for funding the California Advanced Services Fund in Appendix 3 of D.07-09-020 (attached to this ruling for reference). Are there additional requirements that should be added to help avoid waste, fraud, and abuse? For any suggested modifications, clarifications, or refinements to the process proposed in Appendix 3, parties should provide supporting rationale.

DRA suggests limiting the amount of per year of each subsidy to “guard against waste, fraud and abuse of any subsidy.”¹² While these goals are important, the Commission should not set limits on the funding amount of a specific project. Doing so would complicate the funding award process because some carriers may not commit to projects at lower funding amounts, requiring the Commission to then reallocate funds to other, less desirable projects. Instead, as discussed above, the amount of the CASF in total should be capped, and the

¹¹ For example, the FCC’s summary statistics of subscribership data indicate that nationally, only 0.7% of zip codes are without a single provider of high-speed services. If that average was also valid for California, the total households unserved by broadband availability would only be approximately 85k households (0.07% multiplied by the 12.2m occupied housing units as noted in Verizon’s Comments at 7) and these households are likely in extremely remote areas of the state. (See <http://www.fcc.gov/wcb/iatd/comp.html> - Table 15, Percentage of Zip Codes with High-Speed Lines in Service from the High-Speed Services for Internet Access, Release 01/07).

¹² DRA Comments at 8.

Commission should grant funding based on cost and other criteria. In addition, CASF awards should be determined based on total project capital costs, not “per year” amounts.

Q5. Comments are solicited as to whether an application for CASF funding should trigger and open a 60-day window for other applications for substantially the same geographic area.

A number of parties support a 60-day window for multiple applications.¹³ As Verizon stated in opening, comments, a 60-day window for multiple applications would unduly delay and complicate the application process. Entities should select areas of desired deployment based on solid business plans, not others’ application. Although DRA claims that this concept will promote competition, it is unclear how this will occur if only a single grant is anticipated for any given area.

Q6. D.07-09-020 stated that CASF applicants must meet specific audit, verification, and other requirements with respect to the use of the funds, subject to procedures adopted in the next phase of the proceeding. Parties should identify specific audit, verification, and other requirements that would be warranted as a basis to administer the CASF funding consistent with the universal service goals as discussed in D.07-09-020.

The structure of any broadband infrastructure program should be set so as to insure viable projects while at the same time not discouraging applications. DRA proposes so many detailed and burdensome reporting requirements that viable applications would very likely be deterred. For example, DRA proposes that applicants identify the need for broadband infrastructure build-out in the area, to serve as a baseline for further verification reporting. DRA would also require applicants to provide basic service quality data including complaints, and

¹³ Se, e.g., DRA Comments at 9; Sprint-Nextel Comments at 22-23; SureWest Comments at 5-6.

to track broadband speeds offered, broadband availability and subscribership levels in the subsidized area by census block group.¹⁴ Coupled with DRA's admonition that application data be submitted "voluntarily" but, if not submitted, any application must be deemed null and void,¹⁵ these requirements could well be viewed as significant obstacles. None of these requirements are necessary or appropriate. Any Commission oversight of CASF projects that are awarded funding should end when the broadband build-out is completed. The goal is to subsidize broadband infrastructure deployment in unserved areas so as to promote broadband availability.

Q7. If Pub. Util. Code § 739.3 is the basis for the CASF, comments are solicited as to whether the use of the term "telephone corporation" in that section may limit recipients of CASF money to those entities qualifying under Pub. Util. Code § 234.

Verizon has no additional comments at this time.

October 3, 2007

Respectfully submitted,

/s/

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¹⁴ DRA Comments at 9-11.

¹⁵ DRA Comments at 8.

CERTIFICATE OF SERVICE

I hereby certify that: I am over the age of eighteen years and not a party to the within entitled action; my business address is 711 Van Ness Avenue, Suite 300, San Francisco, California 94102; I have this day served a copy of the foregoing,

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on all known parties to R.06-06-028 listed on the most recently updated service list available on the California Public Utilities Commission website, via email to those listed with email and via U.S. mail to those without email service. I also caused courtesy copies to be hand-delivered as follows:

I declare under penalty of perjury that the foregoing is true and correct.

Executed this October 3, 2007 at San Francisco, California.

/s/ Thomas Bird

Thomas Bird

CALIFORNIA PUBLIC UTILITIES COMMISSION

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